

City of Selah
Council Minutes
October 24, 2017

Regular Meeting
Selah Council Chambers
115 West Naches Avenue
Selah, WA 98942

- A. Call to Order Mayor Raymond called the meeting to order at 5:30pm.
- B. Roll Call
- Members Present: Roy Sample; Laura Ritchie; Roger Bell; Diane Underwood; Russell Carlson
- Members Absent: Paul Overby; John Tierney
- Staff Present: Donald Wayman, City Administrator; Robert Noe, City Attorney; Dale Novobielski, Clerk/Treasurer; Gary Hanna, Fire Chief; Jim Lange, Deputy Fire Chief; Eric Steen, Deputy Police Chief; Ty Jones, Public Works Utility Supervisor; Jeff Peters, Community Development Supervisor; Dave Mullen, Recreation Manager; Bree Tait, Civic Center Manager; Andrew Potter, Human Resources Manager; Monica Lake, Executive Assistant

- C. Councilmember Absence – Motion to Excuse

Council Member Ritchie moved, and Council Member Underwood seconded, to excuse the absence of Council Members Overby and Tierney. By voice vote, approval was unanimous.

- D. Pledge of Allegiance

Council Member Ritchie led the Pledge of Allegiance.

- E. Invocation

Pastor Jason Williams gave the prayer.

- F. Agenda Changes **None**

- G. Public Appearances/Introductions/ Presentations

Police Chief Hayes introduced Chris Morales, the newest officer of the department, noting that he would be leaving for the academy on October 30.

- H. Getting To Know Our Businesses **None**

- I. Communications

1. Oral

Mayor Raymond opened the meeting. Seeing no one rise to speak, she then closed the meeting.

2. Written **None**

- J. Proclamations/Announcements **None**

- K. Consent Agenda

Executive Assistant Lake read the Consent Agenda.

All items listed with an asterisk (*) were considered as part of the Consent Agenda.

- * 1. Approval of Minutes: October 10, 2017 Council Meeting

- * 2. Approval of Claims and Payroll:

Payroll Checks Nos. 81135 – 81213 for a total of \$236,505.11

Claim Checks Nos. 70248 – 70314 for a total of \$148,851.70

Council Member Sample moved, and Council Member Bell seconded, approval of the Consent Agenda as read. By voice vote, approval was unanimous.

- L. Public Hearings

1. Open Record Hearing – Consider the City of Selah’s recommendation regarding adoption of the 2015 International Building Code, Residential Code, Energy Code, Mechanical Code, Existing Building Code, Property Maintenance Code, Uniform Plumbing Code, and Fire Code unto the City’s Title 11 Building Codes and Standards

Community Development Supervisor Peters addressed L – 1. He said that this hearing is to consider the Planning Commission’s recommendation for approval and adoption of the 2015 International Building Code, Residential Code, Energy Code, Mechanical Code, Existing Building Code, Property Maintenance Code, Uniform Plumbing Code, and Fire Code. He introduced Community Development Administrative Assistant Pellicer-McCann to Council, saying that she did a lot of the work involved with going through the different codes to review and make sure the changes were appropriate, and sending them to City Attorney Noe for legal review.

Mayor Raymond opened the Public Hearing.

Council Member Sample asked if there were any substantial changes from the previous code.

Community Development Supervisor Peters responded that it is simply an adoption of the 2015 Building codes with no substantial changes, although it eliminated a lot of old code references. He noted that the

International Code Council has submitted notice that the 2018 Codes would be coming out shortly, and they may be back for adoption of new codes next year.

Council Member Ritchie asked if they should discuss the matter now or under Ordinances.

Mayor Raymond replied that they can discuss it under Ordinances.

Seeing no one else come forward, Mayor Raymond then closed the Public Hearing.

2. Open Record Hearing – Consider amendments to Chapter 20.24 Building Code Fees to correct identified fees to be consistent with SMC 20.24, Ord No. 1913, § 3, 3-26-13 and 80% of the average Seattle-Tacoma Consumer Price Index for all Urban Consumers for the prior year

Community Development Supervisor Peters addressed L – 2. He said that this hearing goes hand in hand with the prior one, suggested by legal staff to change certain fees be brought before Council in a public hearing plus an Ordinance that modifies the city fee schedule. He remarked that Council passed an Ordinance a number of years ago that changed fees for building and other land use applications, linking them to the Seattle Tacoma price index, but a number of City fees were excluded and there was a miscalculation of the eighty percent in the current table. He stated that this Ordinance corrects the table that went with Ordinance 1913 to be complete and correct, and to contain all the fees in accordance with the Seattle Tacoma PCI.

Mayor Raymond opened the Public Hearing. Seeing no one come forward, she then closed the Public Hearing.

M. General Business

1. New Business **None**
2. Old Business **None**

N. Resolutions **None**

O. Ordinances

1. Ordinance adopting the 2015 International Building Code, Residential Code, Energy Code, Mechanical Code, Existing Building Code, Property Maintenance Code, Uniform Plumbing Code, and Fire Code unto the City's Title 11 Building Codes and Standards

Community Development Supervisor Peters addressed O – 1. He stated that this is the Ordinance for adoption of the 2015 International Building Code, Residential Code, Energy Code, Mechanical Code, Existing Building Code, Property Maintenance Code, Uniform Plumbing Code, and Fire Code.

Council Member Ritchie remarked that she was surprised to find several different ordinance sections criminalizing violations of the building code, which did not appear to be recent additions, and she

wished to discuss whether these should be a misdemeanor if a person fails to comply with any part of Title 11.

City Attorney Noe observed that there was effort to decriminalize these types, and the City adopted its own code enforcement chapter to provide for alternative forms of civil infraction or civil penalties in lieu of criminal. He felt that this gives the City flexibility to pursue violations.

Council Member Ritchie expressed doubt that they were pursued criminally.

City Attorney Noe admitted that he could not think of an example personally.

City Administrator Wayman commented that they have contemplated it in extreme places.

City Attorney Noe remarked that it is not a tool they want to give up, adding that the building council deemed it fit to keep in place.

Council Member Ritchie stated that her personal opinion is that it should be removed, as it could be abused in some cases. She went on to say that she has seen so many times where a person shouldn't have been in that situation, but were convicted because of it, and used 11.10.060b as an example of potential abuse, where the Fire Chief could tell the owner of a building that had completely or partially burned that they needed to take the structure down with ten days or the City would remove it and bill them, something that might not be possible if the owner was a single mom who had to relocate and had no money for the extra expense of building removal. She felt that building code should only deal with civil penalties.

Public Works Director Henne suggested an alternate scenario, where a contractor forges the concrete PSI and instead of five to six thousand gives three thousand per square inch, and uses substandard rebar or less standard concrete.

City Administrator Wayman added that it could be a landlord who knowingly maintains a building dangerous to people's health, even after receiving multiple code violations.

Council Member Ritchie replied that she is not condoning behaviors but those are civil actions; if there is a crime it can be pursued through the criminal code and would be a misdemeanor anyway.

Public Works Director Henne responded that he wanted to point out the other side as well.

Council Member Ritchie commented that this is more than just being liable through Selah's building code and fee schedule, and that her opinion is that they don't need to criminalize this behavior when there is a more substantial civil action to use.

Mayor Raymond wondered what would keep a landlord from treating his tenants like they are lowest of life by letting them live in substandard housing if they took that away.

Council Member Ritchie stated that, even if it is a criminal action, it would not change that.

Mayor Raymond felt that the landlord would have to do something if it was a criminal action.

Council Member Ritchie replied in the negative, saying that it would just be a misdemeanor and there are other ways to approach the problem, such as ordinances prohibiting acts or injunctions of court.

City Administrator Wayman felt that cutting out criminal violations limits the City, although he agreed that the civil side could be more effective than criminal many times. He asked that they retain the option for both to allow a wider set of tools to deal with a particular situation, adding that this was already in the code and not a change with the updates.

Council Member Ritchie understood what they were saying but said she was for limited government, saying that it has been proven to her numerous times in her legal career that abuses can happen if there isn't any type of restraint, or there are laws that are too broad or shouldn't be on the books. She didn't want to give government, or future administrations, the ability to do that.

Community Development Supervisor Peters reminded Council that the portion under discussion was not part of what was being changed, and suggested that they move forward to adopt the Ordinance then bring the matter back as a study session to discuss further modifications. He did note that it can be beneficial to have that particular tool in one's toolbox to assist in dealing with difficult individuals, although he had no personal opinion either way.

Council Member Underwood asked City Attorney Noe for his thoughts.

City Attorney Noe said that he understood Council Member Ritchie's concern, as if it is on the books there is potential for it to be abused, but he felt it was more a philosophical discussion as to how government should enforce regulations. He stated that it is a Council decision, and that he agreed with Community Development Supervisor Peters that they should pass the Ordinance then bring it back for further discussion.

Council Member Carlson commented that there was so much data to read during a limited time frame and that there is discussion to be had on the subject.

Council Member Carlson moved to postpone the Ordinance adopting the 2015 International Building Code, Residential Code, Energy Code, Mechanical Code, Existing Building Code, Property Maintenance Code, Uniform Plumbing Code, and Fire Code unto the City's Title 11 Building Codes and Standards to the next Council Meeting for further discussion.

Community Development Supervisor Peters restated that what Council has before them is an Ordinance that amends the current code to strike out provisions in the existing code that either conflict with the 2015 codes or State law requires a higher standard, adding that they are woefully out of compliance with regard to building codes and standards. He noted that the changes have nothing to do with the criminal side of code enforcement, and felt that if Council wishes to decriminalize the code they need a more specific targeted review of code enforcement codes, not just small portion of Chapter 11.

Council Member Ritchie asked why they would need a study session, as the entire title says that everything is criminal.

Community Development Supervisor Peters responded that he was not prepared to go into details to make changes to the Ordinance on the spot, but she could make a motion to remove this section and wipe it out with an amendment to the Ordinance. He reiterated that the Ordinance before them was to bring the building codes into compliance, with no modifications to the criminal code.

Council Member Bell observed that they have to have some kind of standards and building codes, as they don't want to be in a position where they develop their own outside of a set standard and thereby take on a huge liability. He stated that the purpose of the codes is to protect the citizens of the City, and when one takes the teeth out of the enforcement side for safety protection they are condoning and taking on liability as the City. He felt that they need strong teeth in the law designed for public safety, adding that all they would be doing is adopting a standard and allowing enforcement of it.

Council Member Ritchie questioned if Council Member Sample had ever violated the building code, as he could be held criminally liable.

Council Member Sample declined to answer.

Council Member Carlson restated his motion to postpone the Ordinance adopting the 2015 International Building Code, Residential Code, Energy Code, Mechanical Code, Existing Building Code, Property Maintenance Code, Uniform Plumbing Code, and Fire Code unto the City's Title 11 Building Codes and Standards to the next Council Meeting for further discussion.

Mayor Raymond opined that leaving it in makes them think twice before doing something illegal, and makes everybody honest.

Council Member Ritchie responded that they are talking about a very small subsection of people, while she is talking about holding everyone else criminally liable for it.

Council Member Carlson commented that they were talking about forever until Council decides to make that change.

Mayor Raymond felt that it was worthy of further discussion but it is international code.

Council Member Ritchie disagreed, saying that criminalizing is the City's addition to it, and she is requesting a discussion on the matter as it has not been used in the past and she does not want everyone dealing with the code to be subjected to criminal violations.

Council Member Bell remarked that he read the information twice and does not see any change in either the criminal or civil penalty other than a change from five hundred to one thousand dollars for a civil penalty.

Council Member Ritchie stated that she would not vote to adopt it as is.

Community Development Supervisor Peters reminded Council that they have a motion on the table and need to call for a second, adding that he has a suggested motion that may help.

Mayor Raymond restated Council Member Carlson's motion.

Council Member Ritchie seconded the motion. Roll was called: Council Member Sample – no; Council Member Ritchie – yes; Council Member Bell – no; Council Member Underwood – yes; Council Member Carlson – yes. Motion passed with three yes votes and two no votes.

Community Development Supervisor Peters remarked that his suggestion was going to be that they adopt the Ordinance and then have a second motion to bring back an Ordinance specifically to amend Title 11.

Council Member Sample commented that he was sympathetic to Council Member Ritchie's discussion but agreed with what Community Development Supervisor Peters said about passing the Ordinance and then having a separate discussion. He believed that they had a case recently where there was the option of it being criminal or civil.

City Administrator Wayman responded in the affirmative.

Council Member Sample said that they found that the civil action was more effective in that case, and that he believes Council Member Ritchie makes some sound arguments.

Mayor Raymond asked Council Member Carlson if he would like to amend his motion.

Council Member Carlson responded in the negative.

2. Ordinance amending Chapter 20.24 Building Code Fees to correct identified fees to be consistent with SMC 20.24, Ord No. 1913, § 3, 3-26-13 and 80% of the average Seattle-Tacoma Consumer Price Index for all Urban Consumers for the prior year

Community Development Supervisor Peters addressed O – 2. He said that this is an update of the fees based upon incorrect calculations, correcting some typographical errors, and also includes some fees that were left out.

Council Member Bell wondered how they arrived at eighty percent of the Seattle Tacoma Index and if that was still valid.

Community Development Supervisor Peters replied that it was adopted under Ordinance 1913.

Council Member Sample asked if any fees were decreased.

Council Member Carlson answered in the affirmative, from what he saw.

Council Member Sample remarked that fee decreases do not normally happen.

Community Development Supervisor Peters agreed but added that if they were incorrect they have been corrected per the Ordinance.

Council Member Ritchie inquired if they were incorrect because the person doing the calculations was not doing them right, or if it was a standard fee.

Community Development Supervisor Peters responded that it was both, some because the CPPI went up and some due to calculations being off by a bit.

Council Member Ritchie moved, and Council Member Underwood seconded, to approve the Ordinance amending Chapter 20.24 Building Code Fees to correct identified fees to be consistent with SMC 20.24, Ord No. 1913, § 3, 3-26-13 and 80% of the average Seattle-Tacoma Consumer Price Index for all Urban Consumers for the prior year. Roll was called: Council Member Sample – yes; Council Member Ritchie – yes; Council Member Bell – yes; Council Member Underwood – yes; Council Member Carlson – yes. By voice vote, approval was unanimous.

3. Ordinance Amending Ordinance No. 2008 Regarding the 2017 Salary Schedule for Management, Confidential, and Unrepresented

Human Resources Manager Potter addressed O – 3. He said that the Ordinance amending the 2017 salary schedule is making an adjustment to a single title and adjusting the salary of two employees at Public Works with a five percent increase. He referred Council to the comparisons included in the packet, compiled from information collected by AWC.

Council Member Carlson wondered about the fiscal impact to the 2018 budget.

Human Resources Manager Potter responded that it is built into next year's budget, and the increase was a result of sitting down with department heads to discuss what they would like to pay the positions or advertise for pay.

Council Member Underwood asked why they do not have any lower salaries.

Human Resources Manager Potter responded that some cities have ranges or only have an appointment of salary and not a salary range.

Council Member Underwood inquired if they start at the highest range.

Human Resources Manager Potter answered that they start at the appointed salary for all positions, and they could come back and do a study next year for salary grades and increases each year. He noted that the City also provides a longevity stipend for employees.

Council Member Carlson remarked that it changes approximately a little over three thousand seven hundred dollars per year for two people.

Council Member Bell moved, and Council Member Carlson seconded, to approve the Ordinance Amending Ordinance No. 2008 Regarding the 2017 Salary Schedule for Management, Confidential, and Unrepresented. Roll was called: Council Member Sample – yes; Council

Member Ritchie – yes; Council Member Bell – yes; Council Member Underwood – yes; Council Member Carlson – yes. By voice vote, approval was unanimous.

P. Public Appearances **None**

Q. Reports/Announcements

1. Departments

Human Resources Manager Potter said that he has received communication from the insurance broker and the increase for next year is nearly exactly what they had projected for the 2018 budget.

Council Member Ritchie asked what the percentage was.

Human Resources Manager Potter responded that it was nine point nine, and that he would be making a comparison with another broker to ensure that they are not inflating their percentage of the take.

Police Chief Hayes had no report.

Community Development Supervisor Peters gave an update on the subarea plan, noting that they would be meeting at the Civic Center on November 8 for the kickoff meeting, as well as holding meetings with individual property owners last week and end of this week. He said that there would be an agreement with City of Yakima to take on Selah plan reviews in November in addition to the existing agreement for building inspections, which would give the building community a choice of CWA or City of Yakima for reviews.

Civic Center Manager Tait talked briefly about the gift of computers for the senior center, gifted to them by the Selah Downtown Association, saying that the first computer class would be held on November 3 at 10am in the senior room. She said that the Harvest Community Church would host their annual party at the Civic Center and the Selah Chamber their annual business trick or treat on Halloween.

Council Member Ritchie remarked that the Harvest Community Church event starts at 6pm but special needs children may arrive at 5:30pm.

Fire Chief Hanna had no report.

Public Works Director Henne said that the toys at Volunteer Park would be finished by Friday, and that his department is preparing for winter by blowing out irrigation systems in the parks, winterizing meters, and ordering salt for the roads.

Recreation Coordinator Morales had no report.

Clerk/Treasurer Novobielski gave an update on the sales tax, noting that year to date is higher than this time last year. He provided Council with a summary by fund of the 2018 budget and budget highlights, noting that the binders with detail pages would be available by the end of the week, with budget meetings slated to start on November 8.

Council Member Ritchie requested that he notify them when the binders are ready.

Clerk/Treasurer Novobielski responded in the affirmative.

City Attorney Noe had no report.

2. Council Members

Council Member Ritchie mentioned that the packet online had the building code amendments with track changes available for review and suggested to council Member Carlson that he look online to review.

Community Development Supervisor Peters responded that they should have two different versions in their packets, one that shows the tracked changes and a clean version.

Council Member Sample had no report.

Council Member Bell spoke about the SPRSA board meeting held the night before, saying that they voted to run a levy in August 2018, to allow them time to take input from the citizens who voted against the levy last time and address concerns rather than just push ahead with a similar thought process. He stated that the next SPRSA meeting is November 20, which they have agreed to have as the first open session for public input.

Council Member Underwood asked if they would place an advertisement in the newspaper.

Council Member Bell answered that one of the points discussed was the need to do a better job of communicating where and when the board is meeting.

Mayor Raymond thought that they should be meeting more than once a month.

Council Member Bell responded that would be his opinion as well.

Council Member Underwood had no report.

Council Member Carlson had no report.

3. City Administrator

City Administrator Wayman said that they have been talking to couple of outfits that will be bidding for the transit trade, and he is looking forward to getting answers to the RFQ to provide better service for the customers using buses, with more responsiveness from the and some cost savings. He outlined the situation developing with regard to recycling and China ending their import of recyclable materials, saying that BDI sent a representative out to speak with them about having recycle available for customers. He went on to say that their current plan is to finish the year out but then they would likely drop recycling as an option for customers because the market has disappeared for recyclables such as plastic, cardboard, and glass.

4. Boards

- a. Planning Commission Minutes – October 3, 2017

5. Mayor

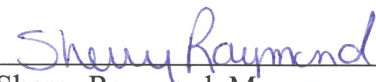
Mayor Raymond had no report.

P. Executive Session **None**

Q. Adjournment

Council Member Sample moved, and Council Member Ritchie seconded, that the meeting be adjourned. By voice vote, approval was unanimous.

The meeting adjourned at 6:43 pm.



Sherry Raymond, Mayor

EXCUSED

Paul Overby, Council Member



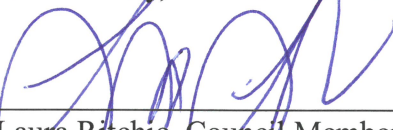
Roy Sample, Council Member



Roger Bell, Council Member

EXCUSED

John Tierney, Council Member



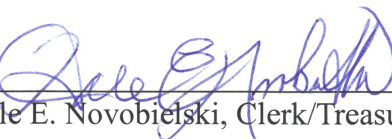
Laura Ritchie, Council Member



Russell Carlson, Council Member

Diane Underwood, Council Member

ATTEST:



Dale E. Novobielski, Clerk/Treasurer